IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 22581 of 2006(L)

PETITIONER:

RAJAN V.JOHN, S/O.LATE T.V.JOHN,
VALIPARAMPIL, VAZHARMANGALAM P.O., CHENGANNOOR.
(TEACHER, VOCATIONAL HIGHER SECONDARY SCHOOL
PURAMATTOM, PATHANAMTHITTA)

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY, GENERAL EDUCATION(H)
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PRINTING,
OFFICE OF THE DIRECTOR OF PRINTING,
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 22581 OF 2006

Dated this the 13th December, 2006.

JUDGMENT

The petitioner was appointed as Ware House man Gr.II in the Printing Department. He was promoted as Ware House man Gr.I in 1982. He possesses a Bachelors Degree and Diploma in Printing Technology. At present he is working as teacher in the Vocational Higher Secondary School, Puramattom in Pathanamthitta district on deputation basis.

2. A Full Bench of this Court in Subaida Beevi v. State of Kerala {2005(1) KLT 426} held that the amended special rules, namely, the Government Presses Subordinate Services Rules, do not suffer from any legal infirmity and that the ratio of 1:1 for promotion to higher posts between diploma and certificate holders needs no interference. The special rules as amended came into force on 13.1.1978. When the Government proceeded to implement the provisions of the special rules, writ petitions were filed contending that the amended rules can be implemented only prospectively so that the inter se seniority of those who belong to the various categories coming within the purview of the special rules can be protected. Division Bench held that the implementation of the Full Bench decision and the revision of seniority list on the basis of Special Rules

cannot be restricted to future promotions since the date of the Full Bench decision. The writ petitions were accordingly dismissed and consequential directions were issued to call for the objections and finalise the seniority list.

3. The reliefs prayed for in this writ petition is for a direction to the second respondent to implement Ext.P5, grant due promotion and consequential benefits to the petitioner within a specified time limit.

4. Ext.P5 is the order passed by the second respondent informing the petitioner that he will be entitled to have his date of promotion assigned in the category of Junior Foreman (Machine) with effect from 1.12.2003 and promotion in the category of Senior Foreman with effect from 1.2.2005. Consequently he will be entitled to count seniority, on finalisation of the list, in the post of Assistant Foreman with effect from 26.5.1982, in the category of Junior Foreman with effect from 1.12.2003 and in the category of Senior Foreman with effect from 1.2.2005. The above order was passed in order to comply with the directions issued by this Court in judgment dated 23.1.2006 in W.P(C)36446/2005 (Ext.P4).

5. Though Ext.P5 was passed on 22.3.2006, accepting to a very great extent the claims made by the petitioner for

appropriate seniority in the different categories of posts mentioned above, the implementation was delayed. It is for this reason the petitioner has approached this Court seeking for a direction to the second respondent to implement Ext.P5 within a specified time limit. The petitioner is due to retire from service on 31.3.2007 on superannuation.

6. In the counter affidavit filed by the respondents it is stated that the petitioner is eligible for promotion as Junior Foreman and Senior Foreman with effect from 1.12.2003 and 1.2.2005 respectively on implementation of the Full Bench decision with effect from the date of commencement of the special rules as held by the Division Bench. However, they find difficulty in giving effect to Ext.P5 since special leave petition filed by the respondents before the Supreme Court against the Division Bench decision in WP(C) 24959/2005 and connected cases is pending.

7. In answer to a querry made by me, the Govt. Pleader submits that to the best of knowledge of the respondents the Hon'ble Supreme Court has not stayed the operation or implementation of the Bench decision of this Court in W.P (C) 24959/2005. Therefore, the mere fact that the respondents have filed an appeal before the Supreme Court

and that the same is pending, cannot be valid reason not to implement Ext.P5 which is in conformity with the provisions of the special rules, the ratio of the Full Bench decision and the Division Bench decision referred to above. The freedom to revise Ext.P5 order sought for by the respondents in the event of the Hon'ble Supreme Court rendering a judgment against the decision of the Division Bench referred to above, is understandable. I am of the opinion that, subject to the above freedom, Ext.P5 has to be given effect to. Therefore, the petitioner is right in seeking reliefs against the respondents, as prayed for. Writ petition is disposed of directing the second respondent to give effect to Ext.P5 as far as the petitioner is concerned and grant him all consequential benefits within six weeks on the petitioner producing a copy of the judgment. The respondents shall bear in mind that the petitioner is due to retire from service in a short time.

K.K.DENESAN
Judge

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